

**IN THE COURT OF COMMON PLEAS OF THE 44TH JUDICIAL DISTRICT
COMMONWEALTH OF PENNSYLVANIA
COUNTY OF WYOMING**

COMMONWEALTH

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:
:

VS.

NO. _____ CR _____

WRITTEN NOLO CONTENDERE PLEA COLLOQUY

You or your attorney have indicated that you may want to not contest some or all of the crimes charged against you. This paper lists questions connected with your nolo contendere plea. Many of the questions go over your rights under the law as a person charged with a crime or with crimes. By pleading nolo contendere, you give up many of these rights. It is important, then, that you understand your rights before pleading nolo contendere. Please read each question carefully and then answer the question. If you do not understand the question, mark that down by the question. When you have finished answering the questions on a page, put your initials in the space at the bottom of the page. When you have finished all of the questions, sign the last page.

If there are questions you do not understand, or if you do not believe you understand the rights mentioned in this paper, go to your attorney so that he/she can explain the question or your rights to you. You may also ask the Judge to explain your rights to you when you go before him.

To Defense Counsel: It is your responsibility to see that this form is properly completed prior to appearing before the Court for acceptance of the plea.

Initials _____

1. What is your full name? _____
2. How old are you today? _____
3. How far did you go in school? _____
4. Can you read, write and understand the English language?
Yes _____ No _____
5. Are you now being treated for a mental illness?
Yes _____ No _____
6. If the answer to No. 5 is yes, explain the details. If the answer is no, go to question no. 8. _____

7. If you are now being treated for a mental illness, do you still feel that you are able to understand what you are doing today?
Yes _____ No _____
8. Do you know what crime or crimes are charged against you?
Yes _____ No _____
9. Each crime has a number of elements to it. Did your attorney (your lawyer) explain to you the elements of the crime or crimes that you are pleading nolo contendere to?
Yes _____ No _____
10. When a person is charged with a crime, he has a right to defend himself in a trial by jury. Do you understand this?
Yes _____ No _____
11. To defend yourself in a trial by jury, you would have to plead not nolo contendere. Do you understand this?
Yes _____ No _____
12. By pleading nolo contendere, you do not contest that you committed the crime charged and you give up your right to a trial by jury. Do you understand this?
Yes _____ No _____
13. ***Do you understand that if you are convicted of a misdemeanor crime involving violence where you are or were a spouse, intimate partner, parent or guardian of the victim, or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. §922 (g)(8) and/or state tribal, territorial or local law. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an***

attorney.
Yes _____ **No** _____

14. If you want a trial by jury, you have the right to help select the jury with your attorney. You would have a number of preemptory challenges and you can use those challenges to remove any potential juror for any reason, or no reason, whatsoever. Twelve (12) people must be selected to be your jury. Do you understand this?

Yes _____ No _____

15. Do you understand that if you chose to have a jury trial, the judge will send for a panel of thirty or forty prospective jurors, all drawn at random from the voter registration rolls of the county?

Yes _____ No _____

16. If you have a trial by jury, the jury determines whether you are nolo contendere or innocent of the crimes charged against you. Do you understand this?

Yes _____ No _____

17. In a jury trial, the jury must presume that you are innocent until you are proven nolo contendere. The Commonwealth of Pennsylvania represented by the District Attorney must prove every element of each crime or crimes charged against you and that you have committed such crime or crimes beyond a reasonable doubt before you can be found nolo contendere. Do you understand these things?

Yes _____ No _____

18. In a jury trial you do not have to say anything at trial or do anything to defend yourself. If you do not say anything at trial, this cannot be held or used against you and the court will instruct the jury that this is the law which they are obligated to follow. Do you understand this?

Yes _____ No _____

19. In order for a jury to find you nolo contendere, all twelve (12) people on the jury must agree that you are nolo contendere beyond a reasonable doubt. Do you understand this?

Yes _____ No _____

20. Reasonable doubt is the kind of doubt that would cause an ordinary sensible, cautious person to pause or hesitate in a matter of highest importance or interest to himself or herself. Do you understand this?

Yes _____ No _____

21. If the jury deliberating upon my case could not decide in a unanimous fashion (all twelve (12) of them) as to either your guilt or innocence, this would constitute a hung jury. In the case of a hung jury on any particular charge or charges the Commonwealth generally has the right to retry you on any hung jury charge or charges, although you may not be retried on any not nolo contendere finding or findings rendered by the jury. Do you understand this?

Yes _____ No _____

22. If you wish to defend yourself and plead not nolo contendere, you may also request a trial before a judge instead of by a jury. In that case, there is no jury, and the judge decides whether you are nolo contendere or innocent. As in a jury trial, the District Attorney must prove you nolo contendere of each element of the crime or crimes charged against you beyond a reasonable doubt. Do you understand your right to a non-jury trial?

Yes _____ No _____

23. Do you understand by pleading nolo contendere you give up your right to a trial, either by jury or before a judge?

Yes _____ No _____

24. By pleading nolo contendere, you also give up the right to challenge the evidence the District Attorney wants to bring against you. If the District Attorney has physical objects or other evidence it has taken from you, or if you made any statements or confessions to the police, (or if there are witnesses who identified you to the police) you can challenge the use of this evidence at a hearing before the trial starts. The District Attorney has the burden of showing that it may use this evidence against you. Do you understand that when you plead nolo contendere, you give up this right to challenge the use of this evidence against you?

Yes _____ No _____

25. If you go to trial and if you are convicted you have the right to appeal the verdict to a higher court. Do you understand this?

Yes _____ No _____

26. If you are successful in appealing a verdict of nolo contendere after the trial, the verdict could be overturned and either you would be set free or you would be able to have another trial. Do you understand this and that you would be giving up these rights by pleading nolo contendere?

Yes _____ No _____

27. But if you do plead nolo contendere, you give up your right to appeal your nolo

contendere plea except on three (3) grounds:

- 1.) That the nolo contendere plea was not made voluntarily or you did not understand what you were doing when you plead nolo contendere.
- 2.) That the court could not accept your nolo contendere plea because this court did not have jurisdiction over the case.
- 3.) That the judge's sentence is unlawful or improper.

Do you understand these grounds of appeal?

Yes _____ No _____

28. After you plead nolo contendere, you may petition the court to withdraw your nolo contendere plea either before you are sentenced or within ten (10) days after you are sentenced. It is much more difficult to withdraw your nolo contendere plea after sentence. If the court does allow you to withdraw your nolo contendere plea, then you go to trial on the charges against you. If the court does not allow you to withdraw your nolo contendere plea, you may appeal that decision to the Superior Court within thirty (30) days after you are sentenced. Do you understand this?

Yes _____ No _____

29. Has your attorney or anyone else told you what sentences you can receive for the crimes charged against you?

Yes _____ No _____

30. If you are pleading nolo contendere as a part of a plea agreement, you should know that the judge does not have to accept the plea agreement if he feels it is improper. If the judge rejects the plea agreement, you will go to trial where your attempted nolo contendere plea cannot be mentioned, or you may enter into a different plea. Do you understand this?

Yes _____ No _____

31. If you had gone to trial instead of pleading nolo contendere, you would have had the right to have witnesses testify for you, and you would have had the right to confront (face) and cross-examine all of the prosecution witnesses against you. But if you plead nolo contendere, the District Attorney will be able to briefly give its evidence against you, and the Judge will accept this as true. Do you understand this?

Yes _____ No _____

32. Now that you have been informed of these rights, do you wish to plead nolo contendere to some or all of the crimes charged against you?

Yes _____ No _____

33. Has anybody forced you to enter this plea of nolo contendere?

Yes _____ No _____

34. Are you doing this of your own free will?

Yes _____ No _____

35. Have any threats been made to you to enter a plea of nolo contendere?

Yes _____ No _____

36. Have any promises been made to you to enter a plea of nolo contendere other than any plea agreement made by you or your attorney?
(Please see attached sheet for description of the charge(s) to which you are pleading)

Yes _____ No _____

37. Are you satisfied with the representation of your attorney?

Yes _____ No _____

38. Have you had enough time to talk to your attorney before reading this paper and entering your plea of nolo contendere?

Yes _____ No _____

39. Has your attorney gone over with you the meaning of the questions in this paper?

Yes _____ No _____

40. Has your attorney explained to you the questions you did not understand?

Yes _____ No _____

41. Are you presently on probation or parole?

Yes _____ No _____

42. If you are on probation or parole do you realize that your plea of nolo contendere may mean a violation of that probation and parole and you can be sentenced to prison as a result of that violation caused by your nolo contendere plea today?

Yes _____ No _____

43. Do you understand that decision to enter a nolo contendere plea is yours and yours alone; that you do not have to enter a plea of nolo contendere and give up all your rights as previously explained to you; that no one can force you to enter a nolo contendere plea?

Yes _____ No _____

44. I also understand I will be subject to immediate detention and incarceration as well as bail revocation proceedings under any of the following circumstances:

- a.) I have a positive urinalysis test for controlled substances;
- b.) I initiate any physical or verbal contact either directly or through a third party with any victim of the crime in this matter;
- c.) I commit a new criminal offense for which a prima facie case has been established at a preliminary hearing;
- d.) Any other condition of bail is violated by me.

Initials

45. Has your attorney explained to you that the plea you are entering is considered an "open" plea, meaning that the sentence will be determined entirely by the judge and that no agreement has been made with the Commonwealth

concerning the duration of a possible incarceration?

Yes _____ No _____

46. Has your attorney explained to you that once you enter this nolo contendere plea, you have no absolute right to withdraw or change it unless the judge gives his approval based upon a finding that you have a fair and just reason to withdraw or change the plea?

Yes _____ No _____

47. Has your attorney explained to you that being unsatisfied with the sentencing recommendations made by the probation department or any other person will not constitute fair and just reasons for you to change or withdraw this plea that you are entering?

Yes _____ No _____

48. Has your attorney explained to you that a mere assertion of innocence made by you at a later time and without at least some legal or factual support will not be considered a fair and just reason justifying an attempt to withdraw this nolo contendere plea once it is entered?

Yes _____ No _____

49. Has your attorney in anyway forced you to enter this nolo contendere plea?

Yes _____ No _____

MY CURRENT ADDRESS IS: _____

THE TELEPHONE NUMBER WHERE I CAN BE REACHED IS:

DEFENDANT'S AFFIRMATION & VERIFICATION

I AFFIRM THAT I HAVE READ THE ABOVE PAPER COMPLETELY AND I UNDERSTAND ITS FULL MEANING AND I STILL WANT TO ENTER A PLEA OF NOLO CONTENDERE TO THE CRIMES SPECIFIED. BY ENTERING THIS NOLO CONTENDERE PLEA I DO NOT CONTEST AND AFFIRM, **IN FACT**, THAT I PLEAD NOLO CONTENDERE TO THE CRIMES TO WHICH I AM PLEADING NOLO CONTENDERE. I FURTHER AFFIRM THAT MY SIGNATURE AND INITIALS ON EACH PAGE OF THIS DOCUMENT ARE TRUE AND CORRECT.

I further depose affirm and attest that I have read and completed the foregoing NOLO CONTENDERE PLEA COLLOQUY and that the answers and facts contained in herein are true and correct to the best of my knowledge, information and belief.

I understand that answers, facts and statements made in this NOLO CONTENDERE PLEA COLLOQUY are made subject to the provisions and penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

DEFENDANT

DATE

DEFENSE ATTORNEY'S CERTIFICATION

I, _____, Attorney for
_____, state that I have advised my client of the meaning of this document; that it is my belief that he/she comprehends and understands the questions and what is set forth above; and that the defendant understands what he/she is doing by pleading nolo contendere.

ATTORNEY FOR DEFENDANT

List below the case number(s), charge(s), statutory citation of the charge(s), grading of each offense, minimum/maximum fine and minimum/maximum sentence to which the Defendant is tendering a plea of nolo contendere.

<u>Case#(s)</u>	<u>Charges(s)</u>	<u>Statutory Citation</u>
_____	_____	_____
	<u>Grading</u>	<u>Min./Max Sentence</u>
	<u>Min./Max Fine</u>	
	_____	_____

<u>Case#(s)</u>	<u>Charges(s)</u>	<u>Statutory Citation</u>
_____	_____	_____
	<u>Grading</u>	<u>Min./Max Sentence</u>
	<u>Min./Max Fine</u>	
	_____	_____

<u>Case#(s)</u>	<u>Charges(s)</u>	<u>Statutory Citation</u>
_____	_____	_____
	<u>Grading</u>	<u>Min./Max Sentence</u>
	<u>Min./Max Fine</u>	
	_____	_____

<u>Case#(s)</u>	<u>Charges(s)</u>	<u>Statutory Citation</u>
_____	_____	_____
	<u>Grading</u>	<u>Min./Max Sentence</u>
	<u>Min./Max Fine</u>	
	_____	_____

<u>Case#(s)</u>	<u>Charges(s)</u>	<u>Statutory Citation</u>
_____	_____	_____
	<u>Grading</u>	<u>Min./Max Sentence</u>
	<u>Min./Max Fine</u>	
	_____	_____

EXHIBIT A

NOTICE OF PROBATION DEPARTMENT'S RULES, REGULATIONS, CONDITIONS OF PROBATION AND PAROLE

The following are the Probation Department's Rules, Regulations and Conditions. Please review and sign your name at the end of the document, along with your attorney. These standard rules, regulations, and conditions will be a part of your sentencing order and you will be subject to them, in addition to any other rules, regulations, and conditions ordered by the Court at the time of sentencing. You will be subject to the following rules, regulations and conditions:

1. You will be under the supervision of the Adult Probation Department and shall not leave the Commonwealth of Pennsylvania without written permission of the probation staff.
2. Your residence shall be approved by the probation staff and shall not be changed without written permission of the probation staff.
3. Maintain regular contact with the Probation Department including:
 - a. Reporting regularly as instructed and follow any instruction of your Probation officer, either written or verbal pertaining to your probation/parole/ARD.
 - b. Notifying the Probation Department within 72 hours of any arrest.
 - c. Notifying the Probation Department within 72 hours of any change of employment status including but not limited to on-the-job training and education.
4. Comply with all municipal, county, state, and federal crime laws, as well as the provision of the vehicle code (75 Pa. C.S. 101 et seq.) and the liquor code (47 P.S. 1-10 1- et seq.)
5. You shall:
 - a. Abstain from unlawful possession, or sale of, narcotics and dangerous drugs and abstain from the use of controlled substances within the meaning of the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. 780-101-781-144) without valid prescription and submit for random urinalysis.
 - b. Refrain from possession of any firearms or other weapons.
 - c. Refrain from any assaultive behavior.
6. You shall pay the fines, costs, restitution, \$45 monthly supervision fee and all other obligations and fees imposed on you by the sentencing court on a payment schedule determined by the Collections Officer of the Adult Probation Department. Please make all checks or money orders payable to: Clerk of Courts (use your Docket Number on all payments.)
7. You shall comply with the following conditions which have been imposed by the Court and Probation staff:
 - a. Abide by the rules of probation/parole supervision.
 - b. Complete Community Service hours if otherwise ordered by the Court.
 - c. Complete mental health evaluation and any treatment until successfully discharged if otherwise ordered by the Court.

- d. Complete drug and alcohol evaluation and any treatment until successfully discharged if otherwise ordered by the Court.
 - e. Do not enter establishments that serve/distribute alcohol.
 - f. Refrain from alcohol and non-prescribed drugs, and submit to testing.
 - g. Submit to a DNA registration packet if required by law.
8. If you violate any of the conditions of your probation/parole or are arrested for a new criminal offense while on probation/parole, the Probation Department has the authority to place a detainer against you which will prevent your release from custody pending disposition by the court.
 9. If you violate these rules, regulations and conditions, you may be incarcerated, re-sentenced, or face other requirements or sanctions.
 10. Your probation/parole is expressly conditioned upon your waiving extradition to the Commonwealth of Pennsylvania from any jurisdiction in or outside the United States, where you may be found and upon your contesting any effort by any jurisdiction to return you to the United States or the Commonwealth of Pennsylvania.
 11. I expressly consent to the search of my person, property, and residence without a warrant by agents of the 44th Judicial Probation Department. Any items in the possession of which constitutes a violation of ARD/Probation/parole/re-parole shall be subject to seizure and may be used as evidence in the ARD/Probation/parole/re-parole revocation process.

Should questions occur concerning the conditions of your probation/parole, consult with the Probation Department, as it is their responsibility to help you in the interpretation of the conditions of the probation/parole.

If you believe any of your rights have been violated as a result of your probation/parole supervision, you may submit a timely complaint in writing to the Chief Probation officer of the Probation Department.

ACKNOWLEDGMENT BY DEFENDANT

I hereby acknowledge that I have read, or have had read to me, the foregoing conditions of my probation/parole; I fully understand them and agree to follow them; and I fully understand the penalties involved should I, in any manner, violate them. I understand and agree these conditions will be a part of my sentencing order.

The conditions stated herein are applicable to Accelerated Rehabilitative Disposition (ARD) and Probation Without Verdict (PWV) cases with the exception of arrest and revocation procedures.

Signature of Defendant

Date: _____

Signature of Attorney

Date: _____